

PRIVATE CHAPTER NO. 94

HOUSE BILL NO. 4249

By Representative Matlock

Substituted for: Senate Bill No. 4252

By Senator McNally

AN ACT to enact provisions relative to civil service for employees of the sheriff in Loudon County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. By approving this act as set forth in Section 22, the legislative body of Loudon County may establish civil service for employees of the county sheriff.

SECTION 2. The merit system to which this act shall apply shall be the classified service, which shall include all positions and salaried employees in the Office of Sheriff except the sheriff, chief deputy sheriff, and his personal secretary. The Sheriff may appoint his chief deputy sheriff provided such chief deputy sheriff meets the minimum standards as required by applicable state and county law. The chief deputy sheriff is not subject to the Merit Service Board under this act and serves at the will of the sheriff, and his employment terminates when the sheriff's term expires.

SECTION 3. There is hereby created a Merit Service Board composed of three (3) members appointed by the County Mayor, at least one of which shall be a County Commissioner, to administer the provisions of this act. Such appointments shall be subject to confirmation by the County Commission. No more than two (2) of the members may be from the same political party.

SECTION 4.

(a) Merit Service Board members shall serve three-year terms, provided, however, the initial appointments shall be as follows:

- (1) One (1) member for one (1) year;
- (2) One (1) member for two (2) years; and
- (3) One (1) member for three (3) years.

(b) All appointments thereafter shall be for three-year terms.

(c) Each member shall be eligible for reappointment and each member shall have the right to vote as a member of the Board.

SECTION 5. All members of the Board shall be over twenty-one (21) years of age, of good moral character, a citizen of the United States and the State of Tennessee and must reside in the County where appointed.

SECTION 6. The members of the Board may receive a per diem as determined by the County Commission.

SECTION 7. The Board shall elect one (1) of its members to serve as Chairman of the Board. Two (2) members of the Board shall constitute a quorum. The Sheriff shall appoint one (1) of his employees to be Personnel Officer, or the Sheriff may, by agreement with the County Commission, appoint a Personnel Officer other than one (1) of the Sheriff's employees. The Personnel Officer shall be the keeper of the personnel records of employees under the provisions of this act and shall serve as Secretary of the Merit Service Board.

SECTION 8. The Merit Service Board as a body shall have the power:

(1) To adopt and amend rules and regulations for the administration of this act;

(2) To make investigations concerning the enforcement and effect of this act and to require observance of the rules and regulations;

(3) To hear and determine appeals and complaints respecting the administration of this act;

(4) To access through the Sheriff's Office a roster of all employees of the classified service in the Office of the Sheriff showing their positions, rank, compensation and places of residence;

(5) To ascertain and record the duties and responsibilities pertaining to all positions in the classified service and to classify such positions in the manner hereinafter provided;

(6) Except as otherwise provided in the act, to review and approve competitive tests as recommended by the Sheriff and to determine qualifications of persons who seek employment in any position;

(7) To insure the Sheriff's office maintains records of performance and a system of service ratings to be used to determine promotions, the order of lay-offs or reduction of force, the order of re-employments, to assist in the determination of dismissal for cause and for other purposes; and

(8) To keep any other records as may be necessary for the administration of this act.

SECTION 9. The Board shall, as soon as practical after this act becomes operative, adopt a classification plan and make rules and regulations for its administration. The classification plan shall state for each class of positions, a class title, the duties, authorities, responsibilities and character of work required for each position. Each class of positions may be subdivided, and classes may be grouped and ranked in such manner as is deemed appropriate. The Board shall review and approve the requirements of each position and class thereof as to education, experience, capabilities, knowledge and skill.

SECTION 10. The Board may, after advice from the Sheriff, create new positions or combine, alter or abolish existing positions in such manner as the Board, acting with the advice of the Sheriff, deems necessary for the effective operation of the Office of Sheriff; provided, however, that no position in the classified service shall be abolished except upon approval of the Board acting in good faith, after consultation with the Sheriff.

SECTION 11. The Loudon County Sheriff's Office shall follow the rules and regulations as outlined in the Policy and Procedures Handbook for Loudon County Government. The Sheriff may also adopt Standard Operating Procedures for the Office of Sheriff.

SECTION 12.

(a) The Sheriff shall, as often as required by the needs of the Office of Sheriff, cause tests to be scheduled for the purpose of establishing lists of eligible persons for the various positions in the classified service. Such tests shall be public, competitive and open to all persons who may be lawfully appointed under the rules promulgated by the Board and existing prior to the announcement of the examination. Such rules shall set limitations as to residence, ability to perform essential functions of the position with or without reasonable accommodation, habits, moral character and other necessary pre-requisites for the performance of the duties of the position for which examination is designated, and such rules shall not be less than those provided in Tennessee Code Annotated, Section 38-8-106.

(b) Promotion tests shall be public, competitive and free to all persons examined under the provisions of this act. All tests shall be practical and shall consist only of subjects which will fairly determine the capacity of the person examined to perform the duties of the position in which the appointment is to be made. Tests may include examination for physical fitness and manual skill. No questions in any test shall relate to religious or political opinions or affiliations. The eligible persons shall take rank upon a list, which shall be compiled for each position, in the order of their relative excellence as determined by the tests without reference to the priority of the time from when the tests are given. Additional criteria may be used to determine the final selections for promotion. Notice of the time, place and general scope of each test, the duties, and experience required for all positions for which the test is to be held, shall be given by the Sheriff to each applicant at least one (1) week preceding the test.

SECTION 13.

(a) Whenever a vacancy occurs in any position in the classified section of the Office of Sheriff, the Sheriff shall review the names of all persons on the eligible list for the position wherein the vacancy exists, within thirty (30) days of the vacancy. The Sheriff shall thereupon investigate each of the five (5) highest on the list of eligible persons. In the event the investigations result in none of the first five (5) eligible persons being acceptable to the Sheriff, he shall investigate the next five (5) eligibles on the list, one (1) after another, until one (1) of the eligible persons investigated is acceptable to the Sheriff. The Sheriff shall appoint such person to the position wherein the vacancy exists and shall notify the Board of his action.

(b) No appointment or promotion for any position in the classified service shall be deemed complete until after the expiration of six (6) months probationary service during which time the Sheriff may determine the effectiveness of the employee. If in the Sheriff's judgment the employee does not meet the standards, the Sheriff may terminate the employment of any person certified and appointed when he deems it to be in the best interest of the service. Whenever a position of the classified service is filled by promotion and the services of the person promoted are terminated by the Sheriff during the probationary period, such person shall forthwith be returned to duty in the previous position held by him in the classified service unless such person's conduct during the probationary period had given grounds for dismissal for cause under this act. Any person dismissed during the probationary period shall not be eligible to a hearing before the Board except as may be otherwise provided in this act.

(c) A person who is selected by the Sheriff and does not report for duty at the time so designated and who does not explain such failure to report in writing within five (5) days, may be rejected by the Sheriff who shall forthwith notify the Board of the action taken and the reason therefore, and the person's name shall then be removed from the eligible list.

SECTION 14.

(a) The practice and procedure of the Board with respect to any investigation by the Board as authorized by this act shall be in accordance with the rules and regulations to be established by the Board. Such rules and regulations shall provide for a reasonable notice to all persons affected by any order which the Board may issue upon completion of such investigation. Such persons shall have the opportunity to be heard either in person or by legal counsel, at their own expense, and to introduce testimony in their behalf at a public hearing, which shall be held for that purpose.

(b) The Board, when conducting any investigations or hearings authorized by this act, shall have the power to administer oaths, take

depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. In case of the disobedience of any person to comply with the orders of the Board or of a subpoena issued by the Board, or on the refusal of a witness to testify on any matter on which he may be lawfully interrogated, the Judge in any court of record within the County, upon petition of the Board, shall compel obedience by proceedings as for contempt. The Sheriff or a legal Deputy of the Sheriff shall serve such subpoenas as issued by the Board.

SECTION 15.

(a) The Sheriff shall give a report in writing to the Board of any personnel action over which the Board would have Jurisdiction.

(b) The Sheriff may suspend any employee for not more than ten (10) days for cause and there shall be no right of appeal for any suspension thereof; provided, however, the Sheriff shall not have the authority to suspend any employee for more than one (1) suspension of ten (10) days within any given six-month period of time without a right of appeal. If the Sheriff shall suspend any employee for a period longer than ten (10) days, the suspended employee shall be notified in writing of the charges, which caused their suspension. They shall thereafter have ten (10) days to request a hearing before the Merit Service Board and upon their request the Board shall set a hearing not more than thirty (30) days from the date of the receipt of their request for a hearing.

SECTION 16. The Sheriff shall have the authority to dismiss any employee for ordinary cause with a right of appeal to the Board assured the employee. The dismissed employee shall be notified in writing of the causes for dismissal. An employee who has completed the probationary period shall have ten (10) days to request a hearing before the Board and upon his request the Board shall set a hearing not more than thirty (30) days from the date of the receipt of his request. The rules of procedure for the conduct of any investigation by the Merit Service Board shall apply to this hearing. Upon a finding by the Board that the Sheriff has not complied with the procedures of the Board, the Board may order the employee to be reinstated. Upon notice to the employee and hearing as provided in this section, the Board by unanimous vote may without recommendation of the Sheriff dismiss an employee for violation of this act or for continued violation of the rules and regulations established by the Board.

SECTION 17. No employee holding a position in the classified service shall take an active part in any political campaign while on duty or in uniform. Under no circumstance, while on duty or in uniform, shall any employee of the Office of Sheriff solicit money for political campaigns or in any way use his position as a Deputy Sheriff to reflect his personal political feelings as those of the Office of Sheriff, or to use his position as Deputy Sheriff to exert pressure on any person or group of people to sway their political views. Neither an employee while on duty nor any officer while in uniform shall display

any political advertising or paraphernalia on his person or on his county automobile. However, nothing in this act shall be construed to prohibit or prevent any such employee from becoming or continuing to be a member of a political club or organization and enjoying all the rights and privileges of such membership, or from attending any political meetings while not on duty or in uniform or in the course of his official business, nor shall he be denied from enjoying any freedom from interference in the casting of his vote. Any person violating the provisions of this section may be dismissed from the service of the Office of the Sheriff.

SECTION 18. The Sheriff shall not require any employee in the classified service to participate in any political activity as a condition of employment, continuation of employment, or promotion. If, upon an investigation by the Board and its determination that such actions have taken place, the Board shall issue an order to the Sheriff to cease and desist from such activity. If the Sheriff fails to comply or persists in the activity, the Council may apply to any court of record in the county for a citation of contempt.

SECTION 19. All employees of the Sheriff with six (6) months' service who, after the enactment of this act, would be covered by the act's provisions, shall be automatically considered as members of the classified service, upon the act taking effect. All "probationary" employees shall receive credit for the amount of continuous accrued time of service immediately preceding the date of enactment.

SECTION 20. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 21. Any private act in existence at the passing of this act which shall be in conflict with the provisions of this act is hereby repealed.

SECTION 22. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Loudon County within ninety (90) days after the sine die adjournment of the 105th General Assembly. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 23. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 22.

PASSED: May 1, 2008



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 16th day of May 2008



PHIL BREDESEN, GOVERNOR